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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,218	03/18/2004	Kenton B. Abel		5863

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EXAMINER	
GARRETT, ERIKA P	

ART UNIT	PAPER NUMBER
3636	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/803,218	ABEL, KENTON B.
	Examiner	Art Unit
	Erika Garrett	3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 21-26 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 21-26 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 23-24 are rejected under the judicially created doctrine of double patenting over claims 6-7 of U. S. Patent No. 6,749,260 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: the tension on the belt is at least 75kg/165 lbs. and 150kg/330 lbs. tension force.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 21-22 and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Bello (6,024,408). Bello discloses the use of the method of installing a safety seat in a vehicle comprising disposing a safety seat in a vehicle, wherein the vehicle includes a belt buckle assembly including a male buckle (22) portion and a female buckle (26) portion, the vehicle also includes a belt (29) moveably coupled to the male buckle or the female buckle portion, and the belt includes a first end secured to the vehicle and second distal end; coupling the male buckle portion to the female buckle portion to form the buckle assembly such that the safety seat is coupled to the vehicle; coupling a tension device (10,14,9,8) to the belt on the portion of the belt between the moveably coupled buckle portion and the second distal end; coupling the tension device to an anchor point; and generating tension on the belt by the tension device (10,14,9) see figures 3a-4; whereby the belt secures the safety seat to the vehicle. In regards to claim 22, wherein the tension device further comprises a tension maintaining

mechanism (8) to maintain the tension generated on the belt until an installer releases the tension. In regards to claim 25, wherein the vehicle is an airplane. In regards to claim 26, wherein the vehicle is an automobile.

Claims 21-22 and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Koledin (5,839,789). Koledin discloses the use of the method of installing a safety seat in a vehicle comprising disposing a safety seat in a vehicle, wherein the vehicle includes a belt buckle assembly including a male buckle portion and a female buckle portion, the vehicle also includes a belt (5) moveably coupled to the male buckle or the female buckle portion, and the belt includes a first end secured to the vehicle and second distal end; coupling the male buckle portion to the female buckle portion to form the buckle assembly such that the safety seat is coupled to the vehicle; coupling a tension device (3) to the belt on the portion of the belt between the moveably coupled buckle portion and the second distal end; coupling the tension device to an anchor point; and generating tension on the belt by the tension device (10,14,9) see figures 1-4; whereby the belt secures the safety seat to the vehicle. In regards to claim 22, wherein the tension device further comprises a tension maintaining mechanism (8) to maintain the tension generated on the belt until an installer releases the tension. In regards to claim 25, wherein the vehicle is an airplane. In regards to claim 26, wherein the vehicle is an automobile.

Claims 21-22 and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by van Montfort (6,152,528). Montfort discloses the use of the method of installing a safety seat in a vehicle comprising disposing a safety seat in a vehicle,

wherein the vehicle includes a belt buckle assembly including a male buckle portion and a female buckle portion, the vehicle also includes a belt (21) moveably coupled to the male buckle or the female buckle portion, and the belt includes a first end secured to the vehicle and second distal end; coupling the male buckle portion to the female buckle portion to form the buckle assembly such that the safety seat is coupled to the vehicle; coupling a tension device to (5) the belt on the portion of the belt between the moveably coupled buckle portion and the second distal end; coupling the tension device to an anchor point; and generating tension on the belt by the tension device (5) see figures 3-4; whereby the belt secures the safety seat to the vehicle. In regards to claim 22, wherein the tension device further comprises a tension maintaining mechanism (13) to maintain the tension generated on the belt until an installer releases the tension. In regards to claim 25, wherein the vehicle is an airplane. In regards to claim 26, wherein the vehicle is an automobile.

Claims 21-22 and 25-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Yanaka (6,672,664). Yanaka discloses the use of the method of installing a safety seat in a vehicle comprising disposing a safety seat in a vehicle, wherein the vehicle includes a belt buckle assembly including a male buckle (17) portion and a female buckle portion (18), the vehicle also includes a belt (16) moveably coupled to the male buckle or the female buckle portion, and the belt includes a first end secured to the vehicle and second distal end; coupling the male buckle portion to the female buckle portion to form the buckle assembly such that the safety seat is coupled to the vehicle; coupling a tension device to (20) the belt on the portion of the belt between the

moveably coupled buckle portion and the second distal end; coupling the tension device to an anchor point; and generating tension on the belt by the tension device (20) see figures 3-4; whereby the belt secures the safety seat to the vehicle. In regards to claim 22, wherein the tension device further comprises a tension maintaining mechanism (15,14) to maintain the tension generated on the belt until an installer releases the tension. In regards to claim 25, wherein the vehicle is an airplane. In regards to claim 26, wherein the vehicle is an automobile.

Claims 21-22 and 25-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamazaki (6,508,510). Yamazaki discloses the use of the method of installing a safety seat in a vehicle comprising disposing a safety seat in a vehicle, wherein the vehicle includes a belt buckle assembly including a male buckle portion and a female buckle portion, the vehicle also includes a belt (4) moveably coupled to the male buckle or the female buckle portion, and the belt includes a first end secured to the vehicle and second distal end; coupling the male buckle portion to the female buckle portion to form the buckle assembly such that the safety seat is coupled to the vehicle; coupling a tension device to (12) the belt on the portion of the belt between the moveably coupled buckle portion and the second distal end; coupling the tension device to an anchor point; and generating tension on the belt by the tension device (12) see figures 1-5; whereby the belt secures the safety seat to the vehicle. In regards to claim 22, wherein the tension device further comprises a tension maintaining mechanism (16,13) to maintain the tension generated on the belt until an installer releases the

tension. In regards to claim 25, wherein the vehicle is an airplane. In regards to claim 26, wherein the vehicle is an automobile.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bello in view of Waters (4,823,443). Bello shows the use of all the claimed invention but fails to show the use of a tension generated on the belt at least 165 lbs. or 330lbs of tensional force. Waters teaches the use of a tension generated on the belt at least 165 lbs. or 330lbs of tensional force. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the tension generated on the belt with at least 165 lbs. or 330lbs of tensional force as taught by Waters, in order to secure the child to the safety seat better and prevent the device from unwinding.

Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanaka in view of Waters (4,823,443). Yanaka shows the use of all the claimed invention but fails to show the use of a tension generated on the belt at least 165 lbs. or 330lbs of tensional force. Waters teaches the use of a tension generated on the belt at least 165 lbs. or 330lbs of tensional force. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the tension generated on the

belt with at least 165 lbs. or 330lbs of tensional force as taught by Waters, in order to secure the child to the safety seat better and prevent the device from unwinding.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to safety seat: U.S Pat. No. US006092869A, US006425632B1, US006494535B2, US006017087A, US005810435A, US006209957B1, US006450576B1, US005496083A, US006485102B1, and 5020856.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 703-605-0758. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EG
October 29, 2004

Rodney B. White

RODNEY B. WHITE
PRIMARY EXAMINER